IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Bail Appl..No. 3721 of 2007()

CRIME NO. 277/07 OF VADAKKEKAD POLICE STATION

PETITIONERS/ACCUSED:

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1. FAISAL C.K., AGED 24 YEARS,
S/O. KUNJHU, CHERAPARAMBIL HOUSE,
P.O. MANGAD, PATTITHADAM, THRISSUR.

2. SHAJAHAN K.K., S/O. KHADER,
OLANGATTUPARAMBIL HOUSE, P.O. KARIKKAD,
PERUMBHILAVU, MANIYARA KODE,THRISSUR.

3. MUTHU @ THAJUDHEEN (MUSTAFA),
S/O. CHEMBAYIL KUNJHU, P.O. PUNNAYARKULAM,
ATTUPURAM, THRISSUR.

4. SUDHEER V., S/O. NAZEER,
VALIYAVALAPPIL HOUSE, P.O. PUNNAYURKULAM,
ATTUPURAM, THRISSUR.

BY ADV. SRI.P.K.SAJEEV

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
VADAKKEKAD POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3721 of 2007

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Dated this the 20th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations, inter alia, under Section 366 I.P.C. The crux of the allegations is that the first petitioner wanted to marry a girl allegedly aged about 18 years. Her parents were unwilling and in these circumstances it is alleged that the girl was forcibly taken away by the first petitioner with the support and encouragement of others. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that truth is not reflected at all in the F.I. statement. The girl is not a minor. She had wanted to marry the first petitioner. She had come on her own free and voluntary will. The allegation of kidnapping is totally unjustified. The first petitioner and the allegedly kidnapped girl are living as man and wife now. They have already applied for getting the marriage registered under the Special Marriage Act. Even the F.I.R. lodged by the mother of the girl shows that the girl is aged 18

years and that the mother is willing to give the girl respectably in marriage to the first petitioner after the alleged incident.

3. The learned Prosecutor does not oppose the application, but submits that the girl is still missing and has not been traced. The learned counsel for the petitioner submits that the first petitioner is prepared to appear before court along with the girl on any day. I am, in these circumstances, satisfied that this is a fit case where directions under Section 438 Cr.P.C. can and ought to be invoked in favour of the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners along with the alleged victim, Hariffa, shall surrender before the learned Magistrate on 27.6.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 28.6.07 and

thereafter shall appear as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 27.6.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 27.6.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 27.6.2007.

(R. BASANT)
Judge

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